

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)

PLAYTEX PRODUCTS, INC., a Delaware corporation,

Plaintiff,

v.

THE PROCTOR & GAMBLE DISTRIBUTING COMPANY, an Ohio corporation, and THE PROCTOR & GAMBLE COMPANY, an Ohio corporation,

Defendants.

CASE NO. C-1-02-391

(Hon. Thomas M. Rose)

**DECLARATION OF ALON STABINSKY
IN SUPPORT OF PLAYTEX'S JOINT
OPPOSITION TO DEFENDANTS' (A)
MOTION FOR SUMMARY JUDGMENT OF
NON-INFRINGEMENT BASED ON
MARKMAN RULING (DKT. 96), AND (B)
MOTION TO EXCLUDE THE OPINIONS IN
PLAINTIFF'S SUPPLEMENTAL EXPERT
REPORTS (DKT. 94).**

**EXHIBITS G & L FILED UNDER SEAL
PURSUANT TO THE OCTOBER 25, 2002
AGREED PROTECTIVE ORDER**

I, Allon Stabinsky, state as follows:

I am an attorney at law licensed to practice before the courts of the State of California, and am admitted *pro hac vice* to appear before this Court. I am associated with the law firm of Latham & Watkins, attorneys of record for plaintiff Playtex Products, Inc. ("Playtex"). I have personal knowledge of the matters stated herein, and if called as a witness, I would and could competently testify hereto.

1. Attached hereto as Exhibit A is a true and correct copy of relevant excerpts of the August 8, 2003 deposition of Evan Hutchison.

2. Attached hereto as Exhibit B is a true and correct copy of relevant excerpts of the July 11, 2003 deposition of Mario Turchi.

3. Attached hereto as Exhibit C is a true and correct copy of the August 15, 2003 Supplemental Expert Report of James C. Moller, Ph. D, P.E.

4. Attached hereto as Exhibit D is a true and correct copy of a page from the Tampax Pearl website <http://tampaxpearl.com/disc_grip.shtml> visited on September 25, 2003.

5. Attached hereto as Exhibit E is a true and correct copy of the October 30, 2002 Report Of Evan Hutchison Pursuant To Fed. R. Civ. Proc. 26(a)(2).

6. Attached hereto as Exhibit F is a true and correct copy of the October 30, 2002 First Expert Report Of Mario Turchi.

7. Attached hereto as Exhibit G is a true and correct copy of relevant excerpts of the February 12, 2003 deposition of Alan L. Maingot.

8. Attached hereto as Exhibit H is a true and correct copy of Section 2111.03 of the *Manual Of Patent Examining Procedure* (8th ed. 2003).

9. Attached hereto as Exhibit I is a true and correct copy of *Mossman v. Broderbund Software*, 51 U.S.P.Q.2d 1752 (E.D. Mich. 1999).

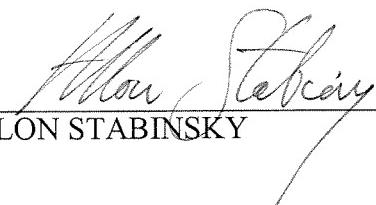
10. Attached hereto as Exhibit J is a true and correct copy of the December 27, 2002 Rebuttal Expert Report Of Mario A. Turchi.

11. Attached hereto as Exhibit K is a true and correct copy of the December 27, 2002 Rebuttal Expert Report Of Evan Hutchison.

12. Attached hereto as Exhibit L is a true and correct copy of relevant excerpts of the December 11, 2002 deposition of Joan B. Szkutak.

I declare under penalty of perjury according to the laws of the United States that the foregoing statements are true and correct.

Executed this 2nd day of October, 2003 in Menlo Park, California.



ALLON STABINSKY

